

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Intelsat License LLC and Intelsat New Dawn)
Company, Ltd.)
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Annual Satellite Status Report)
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FILED/ACCEPTED
JUN 30 2011
Federal Communications Commission
Office of the Secretary

REQUEST FOR CONFIDENTIAL TREATMENT

Intelsat License LLC and Intelsat New Dawn Company, Ltd. (collectively, "Intelsat") respectfully request that, pursuant to Sections 0.457 and 0.459 of the Commission's rules, the Commission withhold from public inspection and accord confidential treatment to portions of the enclosed Annual Satellite Status Report ("Report").¹ Specifically, Intelsat requests confidential treatment of Part 2 of the Report, which contains unscheduled transponder outage information, Part 3, which contains transponder utilization tables for all in-orbit satellites, and Part 4, which contains information on transponders not available for service or transponders not performing within specifications. Parts 2, 3 and 4 of the Report contain commercially sensitive information that falls within Exemption 4 of the Freedom of Information Act ("FOIA").²

Exemption 4 allows parties to withhold from public information "trade secrets and commercial or financial information obtained from any person and privileged or confidential-categories of materials not routinely available for public inspection."³ Applying Exemption 4, the courts have stated that commercial or financial information is confidential if its disclosure

¹ 47 C.F.R. §§ 0.457, 0.459.

² See 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d).

³ *Id.*

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will have either of the following effects: (1) impairs the government's ability to obtain necessary information in the future; or (2) causes substantial harm to the competitive position of the person from whom the information was obtained.⁴ Fixed satellite service space station operators routinely request confidential treatment of transponder outage and utilization information contained in their Reports and the Commission has withheld such information from public inspection.⁵

Section 0.457(d)(2) of the Commission's rules allows persons submitting materials that they wish withheld from public inspection in accordance with Section 552(b)(4) to file a request for non-disclosure.⁶ The requirements governing such requests are set forth in Section 0.459(b). In accordance with the specifications delineated in that rule, Intelsat hereby submits the following:

1. Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1))

Intelsat seeks confidential treatment of the information contained in Parts 2, 3 and 4 of its Report. Part 2 of the Report contains information about any unscheduled transponder outages lasting 30 minutes or more. Part 3 of the Report contains transponder utilization information for all of Intelsat's in-orbit satellites. Part 4 of the Report contains information on transponders not available for service or not operating within parameters. These parts contain commercially sensitive information that falls within Exemption 4 of FOIA.

⁴ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993).

⁵ See, e.g., *Loral Space & Communications Ltd. Annual Status Report* (filed June 30, 2000); *PanAmSat Corporation Annual Status Report* (filed July 2, 2001).

⁶ 47 C.F.R. § 0.457(d)(2).

2. Description of Circumstances Giving Rise to the Submission (Section 0.459(b)(2))

Intelsat is filing the instant Report pursuant to Section 25.210(l)⁷, which requires all fixed satellite service space station operators to file on June 30 of each year a report with the International Bureau containing: (1) the status of satellite construction and anticipated launch dates; (2) a listing of any non-scheduled transponder outages lasting 30 minutes or more; and (3) a detailed description of transponder utilization of each in-orbit satellite.

3. Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or is Privileged (Section 0.459(b)(3))

Parts 2, 3 and 4 of the Report contain sensitive commercial information that competitors could use to Intelsat's disadvantage. The courts have given the terms "commercial" and "financial," as used in Section 552(b)(4), their ordinary meanings.⁸ The Commission has broadly defined commercial information, stating that "[c]ommercial' is broader than information regarding basic commercial operations, such as sales and profits; it includes information about work performed for the purpose of conducting a business's commercial operations."⁹ The transponder utilization table contains detailed information about leased transponder capacity and the amount of transponder capacity available for sale aboard each satellite. This is sales information, clearly within the definition of "commercial." Competitors could use this information, as well as information about any unscheduled transponder outages and malfunctioning transponders, to enhance their market position at Intelsat's expense.

⁷ 47 C.F.R. § 25.210(l).

⁸ *See Bd. of Trade v. Commodity Futures Trading Comm'n*, 627 F.2d 392, 403 & n.78 (D.C. Cir. 1980)

⁹ *Southern Company Request for Waiver of Section 90.629 of the Commission's Rules*, 14 FCC Rcd 1851, 1860 (1998) (Memorandum Opinion and Order) (citing *Public Citizen Health Research group v. FDA*, 704 F.2d 1280, 1290 (D.C. Cir. 1983)).

Moreover, the transponder information meets both definitions of “confidential.” First, a decision to not treat this information as confidential could affect the Commission’s ability to obtain necessary information in the future. Although this information is required by Section 25.210(l), space station operators may be reluctant to provide such detailed transponder information if it is not accorded confidential treatment. Second, as explained in detail in Section 5, release of this transponder information could result in substantial competitive harm.

4. Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4))

Substantial competition exists in the telecommunications satellite industry. Other players in the geostationary, fixed satellite service market include SES WORLD SKIES (formerly SES and New Skies), Eutelsat, Telesat, and Hispasat among others. The presence of these competitors makes imperative the confidential treatment of sensitive commercial information.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5))

As explained briefly in Section 3, release of the transponder utilization and transponder outage and malfunction reports could have a significant impact on Intelsat’s commercial operations. If competitors or customers had access to this information, it could negatively affect Intelsat’s future negotiations with potential and existing customers. Specifically, competitors and customers could use the transponder capacity and outage and malfunction information to negotiate more favorable leasing terms. In addition, competitors could use this information to develop market and business strategies to negatively affect Intelsat’s future business plans.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6))

Intelsat limits access to the transponder capacity and outage and malfunction information to necessary personnel only. Also, Intelsat takes every precaution to ensure that this information is not released to the general public.

7. Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7))

Intelsat has not made the transponder utilization and outage and malfunction information available to the public and has not disclosed the information to any parties other than the FCC, except pursuant to a confidentiality agreement.

8. Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8))

Intelsat respectfully requests that the Commission withhold the transponder utilization and outage and malfunction information from public inspection for fifteen years. The Commission generally licenses satellites for a fifteen-year term and this information remains commercially sensitive until a satellite is decommissioned.

Respectfully submitted,

Intelsat License LLC and Intelsat New Dawn
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Part 1

Satellites Under Construction

Intelsat 18

The Intelsat 18 spacecraft is a C/Ku-band satellite with 24 C- and 12 Ku-band transponders under construction by Orbital Sciences Corporation in Dulles, Virginia. The satellite has undergone environmental tests and construction is expected to be completed by July 2011. The launch is currently scheduled on Land Launch in September or October 2011.

Intelsat 19

The Intelsat 19 spacecraft is a C/Ku-band satellite with 24 C- and 34 Ku-band transponders under construction by Space Systems/Loral in Palo Alto, California. The System Preliminary Design Review was held in January 2010 and the System Critical Design Review in May 2010. Bus and payload modules integration and testing have been completed and single line flow started in December 2010. Spacecraft level thermal vacuum tests were completed in June 2011. Completion of spacecraft construction is currently scheduled for the fourth quarter of 2011. Launch of the Intelsat 19 spacecraft is scheduled on a Sea Launch vehicle in the second quarter of 2012.

Intelsat 20

The Intelsat 20 spacecraft is a C/Ku/Ka-band satellite with 24 C- and 54 Ku-band transponders, and one Ka-band transponder, under construction by Space Systems/Loral in Palo Alto, California. The System Preliminary Design Review was held in January 2010 and the System Critical Design Review in June 2010. Bus and payload modules integration and testing have been completed and single line flow started in January 2011. Spacecraft level thermal vacuum tests are currently scheduled for the third quarter of 2011 and spacecraft construction is expected to be completed in the fourth quarter of 2011. Launch of the Intelsat 20 spacecraft is scheduled on a Ariane 5 launch vehicle in the second quarter of 2012.

Intelsat 21

The Intelsat 21 spacecraft is a C/Ku-band satellite with 24 C- and 36 Ku-band transponders under construction by Boeing Satellite Systems in El Segundo, California. The System Preliminary Design Review was held in March 2010 and the System Critical Design Review in November 2010. Bus and payload modules integration and testing is currently underway with start of single line flow planned for November 2011. Environmental tests are scheduled for the first quarter of 2012. Launch of the Intelsat 21 spacecraft is currently scheduled on a Sea Launch vehicle in the third quarter of 2012.

Intelsat 22

The Intelsat 22 spacecraft is a C/Ku/UHF-band satellite with 24 C-, 18 Ku- and 18 UHF-band transponders under construction by Boeing Satellite Systems in El Segundo,

California. The System Preliminary Design Review was held in October 2009 and the System Critical Design Review in July 2010. Bus and payload modules integration and testing was completed during the first quarter of 2011 and single line flow is expected to start early in July 2011. Environmental tests are scheduled for the third and fourth quarters of 2011. Launch of the Intelsat 22 spacecraft is currently scheduled on a Proton launch vehicle in the first or second quarter of 2012.

Intelsat 23

The Intelsat 23 spacecraft is a C/Ku-band satellite with 24 C- and 15 Ku-band transponders under construction by Orbital Sciences Corporation in Dulles, Virginia. The System Preliminary Design Review was held in April 2010 and the System Critical Design Review in November 2010. Bus and payload modules integration and testing are nearing completion. Single line activities are expected to start in July 2011 and environmental tests are scheduled for the second half of 2011. Launch of the Intelsat 23 spacecraft is currently scheduled on a Proton launch vehicle in the first quarter of 2012.

Intelsat 27

The Intelsat 27 spacecraft is a C/Ku/UHF-band satellite with 20 C-, 20 Ku- and 20 UHF-band transponders under construction by Boeing Satellite Systems in El Segundo, California. The System Preliminary Design Review was held in November 2010 and the System Critical Design Review in May 2011. Bus and payload modules integration and testing are planned for the first quarter of 2012 and single line flow is expected to start in May 2012. Environmental tests are scheduled for the second and third quarters of 2012. Launch of the Intelsat 27 spacecraft is currently scheduled for late 2012 or the first quarter of 2013.

PUBLIC VERSION

THE CONTENTS OF THE
ORIGINAL DOCUMENTS IN
ATTACHMENTS 2 THROUGH 4
ARE ENTIRELY BUSINESS
PROPRIETARY/CONFIDENTIAL
AND THE PAGES THEREIN HAVE
BEEN REDACTED

Part 2
Non-Scheduled Transponder Outages

PUBLIC VERSION

Business Proprietary Information Deleted

Part 3
Transponder Utilization

PUBLIC VERSION

Business Proprietary Information Deleted

Part 4
Transponders Not Available for Service
or
Not Performing to Specification

PUBLIC VERSION

Business Proprietary Information Deleted